## REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-33 have been cancelled without prejudice. New claims 34-48 are presented for examination. Note that claims 34 and 42 recite the same process from different points of view.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

The examiner should be aware that the following co-pending patent applications are related and some of these applications have received office actions:

**10/825,440** fld 4-14-04 (Reexamination)

**09/677,535** fld 10-2-00 (Office Action with rejection)

**10/071,053** fld 2-8-02 (Office Action with rejection) (Present application)

**10/305,439** fld 11-26-02 (Office Action with rejection)

**11/149,278** fld 06/10/05

The examiner is directed to review these other co-pending applications as he deems appropriate.

Claims 1-33 were rejected under 35 USC 112 for failing to set forth the subject matter that applicants regarded as their invention, based on a Declaration filed in Reissue application 10/825,440. Claims 34 and 39 have been drafted to obviate this rejection.

The examiner has set forth various questions relating to the claimed invention, with the questions based on the IDS' filed on October 20, 2006 and March 1, 2007 and also cited

35 USC 102. To the extent there is a rejection based on the information in the two IDs' noted above, such rejection is respectfully traversed and reconsideration is requested in view of the following responses to the Examiner's queries. The March 1, 2007 IDS contained copies of an advertisement and also a Declaration by Mr. Bruce Bent II, the Vice Chairman and President of the assignee, Reserve Management Corporation ("The Reserve"). In his Declaration, Mr. Bent provides a detailed description of the financial operation used to provide the product in the advertisement. Specifically, Mr. Bent declared that

> These accounts were set up with Chase Manhattan Bank by means of a September 1997 Agreement. The insured money market account with free, unlimited, no minimum checking referenced in this advertisement was intended to be implemented and was ultimately implemented to a first customer (which was a retail customer of The Reserve) on October 23, 1997, by means of a money market deposit account (MMDA) and a linked demand deposit account (DDA) in a single bank, the Chase Manhattan Bank, wherein requests for withdrawal were handled by messenger to allow unlimited withdrawals from the MMDA, and wherein each retail customer deposited directly to or withdrew funds directly from another DDA in the Chase Manhattan Bank.

**Interview Summary**: An interview was had with Examiner Felten and Supervisor Kramer on May 24, 2007 on a different application, namely, serial number 09/677,535. During the interview the 1997 advertisement and the system that implemented the financial product identified in the advertisement was discussed as well as distinguishing claim language. Serial numbers 10/071,053 fld 2-8-02 and 10/305,439 fld 11-26-02 were discussed briefly.

For purposes of the present patent application prosecution including patent prosecution appeals, it should be assumed that the type of account advertised in the 1997

advertisement is prior art, but that applicants reserve their right to challenge this assumption in any subsequent non-prosecution litigation proceedings.

Referring to the 1997 operation referenced in the Declaration of Mr. Bent, the DDA in the Chase Manhattan Bank, referred to as the subscription DDA, was registered to The Reserve (the assignee) and the retail customers interfaced with this subscription DDA account by means of Reserve checks drawn to this DDA account. The Reserve deposited the funds from this subscription DDA registered at Chase Manhattan Bank in the name of The Reserve to the money market deposit account (MMDA) at the Chase Manhattan Bank registered as ***"RMC as agent for the exclusive benefit of its clients acting for itself and others"*** to obtain pass-through insurance for the underlying Reserve customers, and interest on the funds. Withdrawals from the MMDA were handled by messenger to a different demand deposit account (DDA) at the Chase Manhattan Bank also registered as ***"RMC as agent for the exclusive benefit of its clients acting for itself and others"*** to obtain the pass-through insurance for the underlying Reserve customers, and then transferred from this different DDA to the subscription DDA registered in the name of The Reserve at the Chase Manhattan Bank.

New claims 34-41 include the limitation "administering the aggregated deposit accounts to transfer or have transferred client funds that had been accepted into respective client accounts held in the names of the respective clients at the first banking institution to the aggregated deposit account at the first banking institution except that for clients with a balance of funds in the aggregated deposit account at the first banking institution that equal or exceed a specified amount depositing additional funds of that client to one of the aggregated deposit accounts in a different one of the banking institutions." This element requires that client funds accepted into a bank, such as a regional bank, from its clients that maintain client accounts in their respective names at that regional bank, be transferred first into an FDIC-insured interest–bearing MMDA held at the same regional bank, and only depositing the funds into an FDIC-insured interest–bearing MMDA at another bank to the extent that the client funds equal or exceed a specified amount. This element has the advantage that it retains client funds on the regional bank balance sheet to be available for banking purposes of that regional bank and only moves funds out of the regional bank when client funds equal or exceed the specified amount. This element in combination with the other elements in the

claim patentably distinguish over this early financial activity. The use of multiple FDIC-insured interest-bearing aggregated deposit accounts at other banks allows aggregations of demand account funds from the multiple retail customers to be distributed across a series of different banks in a controlled manner in order to avoid any one customer from accumulating more than $100,000 (the current FDIC insurance limit for an individual) in a given FDIC-insured and interest-bearing aggregate deposit account at a particular deposit account bank, thereby ensuring FDIC insurance for customer amounts over $100,000. Additionally, the use of multiple FDIC-insured deposit accounts at multiple different banks provides the ability to avoid the 6 withdrawal limit for a month on a given FDIC-insured interest-bearing aggregated deposit account in a given bank that is imposed by banking regulations. Additionally, from a bank viewpoint, this system and method provided a mechanized way for regional banks to gain access to funds in other regions via becoming a designation bank with an FDIC-insured aggregated deposit account in the system. The use of multiple banks, each with an FDIC-insured aggregated deposit account, with a system for managing deposits to and withdrawals from these multiple accounts was not disclosed or suggested by the cited Advertisement or the actual implementation by The Reserve.

Claims 42-48 recite "(a) <u>accepting client funds from each of a plurality of clients, with funds from each different client being accepted into a respective different client account held in the name of that respective client at the first banking institution</u>" and "(d) <u>transferring or have transferred client funds of a plurality of the client accounts to the aggregated deposit account at the first banking institution except that for clients with a balance of funds in the aggregated deposit account at the first banking institution that equal or exceed a specified amount depositing or authorizing deposit of additional funds of that client to one of the aggregated deposit accounts in a different one of the banking institutions</u>." Thus, the above applies equally to claims 42-48.

**USE AND OFFER FOR SALE OF MULTI-BANK OPERATION**: For information purposes, programming for a multi bank process was completed by The Reserve in April 2001. Note at the outset that this programming was not designed for holding money on the balance sheets of the regional banks that brought in the deposits and maintained the individual accounts for those clients, but rather was designed for clients of The Reserve (not a

bank) depositing money with The Reserve via the Reserve account held in the name of The Reserve at the Chase Manhattan Bank or for sweeps of money from broker dealers (not banks) into that account at the Chase Manhattan Bank . Per the above, The Reserve maintained at the Chase Manhattan Bank a working account (DDA) called a subscription DDA, a money market deposit account (MMDA), as well as a different demand deposit account (DDA) for making withdrawals via a messenger from the Chase MMDA. As also noted above, both the Chase MMDA and the different DDA were registered as ***"RMC as agent for the exclusive benefit of its clients acting for itself and others"*** to obtain the pass-through insurance for the underlying Reserve customers. After the programming was completed in April 2001, the first bank to be added to the make a multi-MMDA multi-bank process where deposit funds could be deposited to a selected MMDA in either of two banks was the Irwin Union Bank in July 2001. A DDA and an MMDA registered as ***"RMC as agent for the exclusive benefit of its clients acting for itself and others"*** to obtain the pass-through insurance for the underlying Reserve customers, were established at the Irwin Union Bank. In that process, The Reserve deposited funds to Irwin by transferring funds coming in from Reserve customers that had deposited directly to The Reserve subscription account in the Chase Manhattan Bank or from sweeps from broker dealers into the Reserve subscription account in the Chase Manhattan Bank. This deposited money from Reserve customers or from broker dealer sweeps, i.e., <u>not</u> Irwin Bank customers who had deposited funds in an account held in their respective names at the Irwin Bank, then was transferred under control of the program from this subscription account in the Chase Manhattan Bank to either the MMDA registered as noted above at the Chase Manhattan Bank or the FDIC-insured money market deposit account (MMDA) at Irwin Union Bank. Withdrawals were made by a messenger from the MMDA at the Irwin Union Bank to the DDA at the Irwin Union Bank, and then transferred from the Irwin DDA to the subscription DDA at the Chase Manhattan Bank. However, it is important to note again that the clients making the deposits did not have accounts in their respective names in the Chase Manhattan Bank, which was the bank where the money was accepted for deposit either from Reserve customers or for broker dealer sweeps.

The agreement between The Reserve and Irwin Union Bank to effect this process was signed on July 9th, 2001. A first mailer for FDIC insurance up to $200K was created and approved for use by The Reserve in August 2001 for accounts with $200K of FDIC insurance. See **Exhibit A**. A subsequent press release (**Exhibit B**) for accounts with $200K of FDIC insurance was issued on October 8, 2001.

A first customized Insured Deposit program to offer more than a $100,000 of FDIC Insurance per account was via the Bank of New York (BONY), with the agreement signed in April 2002. For this operation, money accepted for deposit from a client checking account at BONY that changed the account balance in the account above a threshold amount was applied to a Check Invest Program that swept the excess money in the client's account out of BONY and into the subscription account held in the name of The Reserve at the Chase Manhattan Bank, as described above. The Reserve program would then transfer this money to one or more of a plurality of MMDA's at different banks. For example, a customer might deposit $15,000 into his/her checking account at BONY. If the threshold is $5000, then $10,000 would be swept out of the customer account at BONY and into the subscription account held in the name of The Reserve at the Chase Manhattan Bank. The Reserve program would then transfer this money to a selected MMDA in one of a plurality of banks in the Reserve multi-bank program. Thus, the money was not retained on the balance sheet of BONY, the bank that had taken in the deposit from its client that had an account at BONY. This program for BONY went live shortly thereafter. BONY advertised the product as part of their Check Invest Program.

Note that there was activity between Irwin Union Bank and The Reserve in March of 2001 relating to a different product, the Reserve Return Sweep product, which accepted deposits into client accounts held in the names of the respective clients at the Irwin Bank and moved the funds to an interest bearing aggregated deposit account at the Irwin Bank using the same operation as disclosed in 1997. See **Exhibit C.** The Reserve Return Sweep product did <u>not</u> relate to multiple MMDA's at multiple different banks or FDIC insurance for accounts over $100K. The Reserve launched the Reserve Return Sweep product in 2000 with Frontier Bank. The operation with Frontier Bank operated in the same way as with the Irwin Bank

and did not relate to multiple banks or FDIC insurance for accounts over $100K. See **Exhibit D.**)

**Referring now to the query for more information for serial number 10/071,053 based on the IDS' filed on October 20, 2006 and March 1, 2007,** the March 1, 2007 IDS contained copies of an advertisement and also a Declaration by Mr. Bruce Bent II, the Vice Chairman and President of the assignee, Reserve Management Corporation.

**'053 INQUIRY 1: additional information is required regarding any use of the claimed invention prior to October 21, 1997 including, without limitation, the use related to the October 9, 1997 date originally listed in the Trademark cited in the IDS, and date of first use of any products, services and/or systems covered by the claims?**

**Ans:--** Note that for purposes of the present patent application prosecution including patent prosecution appeals, it should be assumed that the type of account advertised in the 1997 advertisement is prior art, but that applicants reserve their right to challenge this assumption in any subsequent non-prosecution litigation proceedings. In the advertised and implemented service in 1997 actually used, the customer interfaced directly with the subscription DDA registered to The Reserve (the assignee) in the Chase Manhattan Bank by means of Reserve checks drawn to this subscription DDA account. Note that The Reserve is not a bank. Note also that the individual clients did not have accounts at the Chase Manhattan Bank. Thus, funds could not have been "*accepted into respective client accounts held in the names of the respective clients at the first banking institution.*" Funds from this subscription DDA were then transferred to an MMDA registered in the name of The Reserve also at the Chase Manhattan Bank. See the details recited above for the operation of this 1997 process.

As noted above, programming for the use of a multi bank process that "<u>transferr[ed] an excess over the specified amount for that client to one of the aggregated deposit accounts in a different one of the banking institutions</u>" was completed by The Reserve in April 2001. The Reserve maintained at the Chase Manhattan Bank a working account called a subscription account, a money market deposit account (MMDA), as well as a different

demand deposit account (DDA) for making withdrawals via a messenger from the Chase MMDA. After the programming was completed in April 2001, the first bank to be added to the make the multi-MMDA multi-bank process where deposit funds could be deposited to a selected MMDA in either of two banks was the Irwin Union Bank in July 2001. A DDA and an MMDA registered in the name of The Reserve were established at the Irwin Union Bank. In that process, the Reserve deposited funds to Irwin by transferring funds from the subscription account in the Chase Manhattan Bank funds to either the MMDA registered to The Reserve at the Chase Manhattan Bank or the FDIC-insured money market deposit account (MMDA) at Irwin Union Bank. Withdrawals were made from the MMDA at the Irwin Union Bank by a messenger to the DDA registered in the name of The Reserve at Irwin Union Bank, and then transferred from the Irwin DDA to the subscription DDA at the Chase Manhattan Bank registered in the name of The Reserve.

The agreement between The Reserve and Irwin Union Bank to effect this process was signed on July 9th, 2001. A first mailer was created and approved for use by The Reserve in August 2001 for accounts with $200K of FDIC insurance. See **Exhibit A**. A subsequent press release (**Exhibit B**) for accounts with $200K of FDIC insurance was issued on October 8, 2001. Note again that for this implementation, funds could not have been "*accepted into respective client accounts held in the names of the respective clients at the first banking institution*." This is because the clients making the deposits did not have accounts in their respective names in the Chase Manhattan Bank, which was the bank where the money was accepted for deposit either from Reserve customers or from broker dealer sweeps.

A first customized Insured Deposit program to offer more than a $100,000 of FDIC Insurance per account was via the Bank of New York (BONY), with the agreement signed in April 2002. The program went live shortly thereafter. BONY did advertise the product. It was part of their Check Invest Program.

For the operation customized for BONY, money accepted for deposit from a client checking account at BONY that changed the account balance in the client account above a threshold amount was applied to a Check Invest Program that swept the excess money in the client's account out of BONY and into the subscription account held in the name of The

Reserve at the Chase Manhattan Bank, as described above. The Reserve program would then transfer this money to one or more of a plurality of MMDA's at different banks. Thus, the money was not retained on the balance sheet of BONY, the bank that had taken in the deposit from its client holding an account at BONY.

Accordingly, neither the 1997 advertisement nor its system or method implementation practiced the current claims with the multi-MMDA multi-bank feature with FDIC insurance for accounts over $100K. Additionally, the 1997 operation did not perform the operation of having funds "*accepted into respective client accounts held in the names of the respective clients at the first banking institution.*"

**'053 INQUIRY 2: additional information is required regarding the date of the first offer to sell of the services covered by the claimed invention, including, without limitation, any and all offers to sell, regardless of acceptance, prior to October 21, 1997; and the date of the solicitation or offer that resulted in the opening of the initial account opened on October 23, 1997?**

**Ans:**--As noted above, for purposes of the present patent application prosecution including patent prosecution appeals, it should be assumed that the type of account advertised in the 1997 advertisement is prior art, but that applicants reserve their right to challenge this assumption in any subsequent non-prosecution litigation proceedings.

As noted previously, programming for a multi-MMDA multi-bank process was completed in April 2001, and a first mailer was created and approved for use by The Reserve in August 2001 for accounts with $200K of FDIC insurance. **See Exhibit A**. A subsequent press release for accounts with $200K of FDIC insurance was issued on October 8, 2001. See **Exhibit B**. But importantly, this programming did not relate to keeping deposited money from bank customers on the balance sheet of the deposit-accepting bank with a client account at that bank. Also, this activity is well after 1997.

**INQUIRY 3: additional information is required regarding the product associated with the initial account opened on October 23, 1997, in particular, details regarding how that product relates to the claimed invention?**

**Ans:**--As noted above, the individual clients could deposit or withdraw funds against the subscription demand account DDA on the books of the Chase Manhattan Bank held in the name of The Reserve, the assignee. As noted previously, the 1997 product was not advertised to provide or have a system to provide FDIC insurance for an account over $100K or programmed to use multiple interest-bearing FDIC-insured deposit accounts at multiple different banks or to provide regional banks with access to deposit funds from other regions. Additionally, in 1997 funds could not have been "*accepted into respective client accounts held in the names of the respective clients at the first banking institution.*"

**'053 INQUIRY 4: additional information is required regarding the product offered for sale in the advertisement published in the October 1997 issue of MUTUAL FUNDS, in particular, details regarding how the offered product relates to the claimed invention?**

**Ans:**--This was answered in the response to Inquiry 3. There is no difference between the product offered for sale in the advertisement of the October 1997 issue of Mutual Funds and the product associated with the initial account opened on October 23, 1997. As noted previously, the 1997 product was not advertised to provide or have a system to provide FDIC insurance for an account over $100K or programmed to use multiple deposit accounts at multiple different banks or to provide regional banks with access to deposit funds from other regions.

**'053 INQUIRY 5: additional information is required regarding any relevant dates and product information regarding the creation and placement of the advertisements disclosed in the IDS?**

**Ans:**--As noted above, for purposes of the present patent application prosecution including patent prosecution appeals, it should be assumed that the type of account advertised in the 1997 advertisement is prior art, but that applicants reserve their right to challenge this assumption in any subsequent non-prosecution litigation proceedings. Applicants are not aware of any product information relating to the 1997 advertisement other than what was disclosed in the IDS' and the current response and Declarations.

**'053 INQUIRY 6: any other relevant information regarding the public use and/or sale of the claimed invention prior to October 21, 1997.**

**Ans:**--As noted above, the current claimed invention was not in public use and/or on sale prior to October 21, 1997. Programming for a multi-MMDA multi-bank operation was completed by The Reserve in April 2001. A first mailer was created and approved for use by The Reserve in August 2001 for accounts with $200K of FDIC insurance. See **Exhibit A**. A subsequent press release for accounts with $200K of FDIC insurance was issued on October 8, 2001. See **Exhibit B**. A first customized Insured Deposit program to offer more than a $100,000 of FDIC Insurance per account was via the Bank of New York, with the agreement signed in April 2002. The program went live shortly thereafter. BONY advertised the product as part of their Check Invest Program. Regarding the multi-bank activity involving the Irwin Bank activity in 2001, the clients making the deposits did not have accounts in their respective names in the Chase Manhattan Bank, which was the bank where the money was accepted for deposit. That is because these were either Reserve customers or broker dealer sweeps. Regarding the BONY program, the deposit money was transferred to MMDA's at other banks, and thus was not retained on the balance sheet of BONY, the bank that had taken in the deposit from its client/customer and had the account for the client.

Finally, note that hindsight use of applicants' claims as a roadmap would be required for someone of ordinary skill to modify the single bank process of the 1997 advertisement and arrive at a system that uses multiple FDIC-insured interest-bearing deposit accounts at other banks to allow aggregations of client account funds from the multiple retail customers to be distributed across a series of different banks in a controlled manner, but starting with the first banking institution that has the accounts of the client depositors to thereby allow that institution to retain as much of the funds as possible for banking purposes, but avoiding any one customer from accumulating more than $100,000 (the current FDIC insurance limit for an individual) in the FDIC-insured and interest-bearing aggregate deposit account at the first banking institution. This operation ensures FDIC insurance for customer amounts over $100,000. This is counter-intuitive from a business standpoint, as a bank normally would not be willing to give deposits from its customers to another bank to use for that other bank's

banking purposes. Additionally, from a bank viewpoint, this system and method provides a mechanized way for regional banks to gain access to funds in other regions via becoming a designation bank with an FDIC-insured interest-bearing deposit account in the system. For example, a regional bank in Peoria, Illinois, after it joined the system and after The Reserve opened an MMDA at that bank, would have access to and use of deposit funds from New York depositors (but not the underlying customer data, i.e., the Peoria bank would not know the identities or account numbers of the underlying customers in New York). There is nothing that suggests such a modification to the system implementing the 1997 advertisement. Thus, the use of multiple banks, each with an FDIC-insured interest-bearing aggregated deposit account, with a system for managing deposits to and withdrawals from these multiple accounts, coupled with a process for preservation of capital on the deposit-accepting banks balance sheet, was not disclosed or suggested by the cited Advertisement or the actual implementation by The Reserve.

**Additionally, the examiner should be aware that a similar query for more information was received in subsequently filed serial number 10/305,439 (filing date 11/26/02) with related claims. The Examiner Query in that case was as follows:**

**The Examiner requested information on evidence to discern whether applicant's statements regarding the public use of the invention being on October 23, 1997 are correct. The examiner in his query stated that the advertisement may still be viewed as an offer for sale of applicant's invention that is an attempt at market penetration (which is patent barred). Even if, as the declaration suggests, there is a bona fide experimental activity via the dummy accounts, as submitted by the applicant in Exhibit D, an inventor *may not* (emphasis added) commercially exploit an invention more than ONE YEAR prior to the filing date of the application.**

**Response**: For purposes of the present patent application prosecution including patent prosecution appeals, it should be assumed that the type of account advertised in the 1997 advertisement is prior art, but that applicants reserve their right to challenge this assumption in any subsequent non-prosecution litigation proceedings. In the advertised and implemented service in 1997, the customers interfaced with the DDA account in the Chase Manhattan Bank, referred to herein as the subscription DDA, by means of Reserve checks

drawn to this subscription DDA account registered to The Reserve. The Reserve deposited the funds from this subscription DDA registered at Chase Manhattan Bank in the name of The Reserve to the money market deposit account (MMDA) registered in the name of The Reserve at the Chase Manhattan Bank to thereby obtain FDIC insurance and interest on the funds. Withdrawals from the MMDA were handled by messenger to a different demand deposit account (DDA) at the Chase Manhattan Bank registered in the name of The Reserve, and then transferred from this different DDA to the subscription DDA registered in the name of The Reserve at the Chase Manhattan Bank.

The use of multiple banks, each with an FDIC-insured interest-bearing aggregated deposit account, with a system for managing deposits to and withdrawals from these multiple accounts, coupled with a process for preservation of capital on the deposit-accepting banks balance sheet, was not disclosed or suggested by the cited Advertisement or the actual implementation by The Reserve prior to the October 1998 priority date.

Additionally, the examiner should be aware that similar requests for information were received from the same examiner for 09/677,535.

Claims 1, 3, 14, 27-28 and 31 were rejected under 35 USC 102 as anticipated by Oncken (4,985,833). This rejection is traversed and reconsideration thereof is respectfully requested.

As noted above, the claims are directed to a system, method and program product for obtaining interest on money accepted for deposit in a client account held in the name of the individual client depositor at a banking or savings institution, by transferring the money into a pooled/aggregated interest-bearing deposit account at the same banking or savings institution, but using a method that <u>permits the client to implement an unlimited number of transactions per month against the money and at the same time drawing interest, but with the money being retained at the same banking or savings institution for use for the various banking purposes of that bank</u> or savings institution, "<u>except that</u> for clients with a balance of funds in the aggregated deposit account at the first banking institution that equal or exceed a specified

amount depositing additional funds of that client to one of the aggregated deposit accounts in a different one of the banking institutions."

Oncken discloses a managing financial institution 20, operating under a formal agency agreement with depositors (column 5, lines 30-32), that provides federal insurance and interest on money of the depositors by sending it out to one or more federally insured depository institutions 22. Oncken does permit unlimited withdrawals, but does this by switching the funds out of the then current depository bank after 5 withdrawals have occurred, and moving the funds to a new bank on a sixth withdrawal. (See Column 8, lines 38-43.) Oncken does not disclose a system or method or program product that permits an unlimited number of transactions per month against an interest-bearing pooled deposit account at that same bank, i.e., Oncken does not retain the funds on the balance sheet of the deposit-accepting bank. The entire account is closed after 5 withdrawals.

Thus, Oncken does not meet the limitations of the claims. Not only does it not meet the limitation, but it teaches away from the claimed invention because it specifically says to pull the money out and close the account after 5 transfers.

Claims 1-33 were also rejected under 35 USC 103 over Oncken (4,985,833) in view of Paulson (5,893,078). This rejection is traversed and reconsideration thereof is respectfully requested.

Although Paulson does disclose demand accounts and sub-accounts, Paulson handles the 6 transfer limit by moving all of the money out of the interest-bearing account on the sixth transfer. Specifically, when a sixth sweep is required, then all of the funds in the Paulson interest-bearing money market sub account, sub-MMA, are transferred to a demand deposit sub account, sub-DDA, on this sixth sweep. See column 1, lines 57-63; column 5, lines 39-44; column 6, lines 3-5.

To summarize Oncken, every five (5) transfers it moves funds from an interest-bearing account at one deposit institution to an interest-bearing account at a different deposit institution, in order to continue to earn interest. By definition, the Oncken system cannot retain the funds in the same institution and have unlimited transfers.

To summarize Paulson, on the occurrence of five transfers it moves all of the funds out of the interest-bearing money market sub-MMA in a sixth transfer, so that interest is no longer being earned on the money.

Thus, both references teach that on the occurrence of five transfers, a sixth transfer should automatically be run to move all of the money out of the interest-bearing account where it is located into a new account. In Oncken, that new account is at a different bank, thereby not meeting the claim requirement that the funds be transferred to and retained "*by the first banking institution,*" except that for a client account that equal or exceed a specified amount, "*depositing additional funds of that client to one of the aggregated deposit accounts in a different one of the banking institutions*." In Paulson, the new account is the sub-DDA, which is non-interest bearing, thus not meeting the claim limitation that the client may implement up to an "*unlimited number of transactions per month <u>while preserving an interest-bearing status of the aggregated deposit account</u>.*"

Note that not only are these references deficient, but their teachings, even if combined, do not meet the claimed combination. Oncken teaches moving money to a different bank after 5 transfers, while Paulson teaches moving money to a non-interest bearing account. It is not clear how one would modify the other to arrive at applicants' claimed invention, or why one of ordinary skill in the art, without inventive activity, would be motivated to make such a combination, nor what would result. Both references teach away from the claimed invention because they specifically say to pull the money out of the interest bearing account after 5 transfers.

Applicants traverse the Official Notice to the extent that it is extended to claims 21 and 22 as amended. There is no recognition that those methods can be used to avoid the 6 withdrawals limit for paying interest on deposit accounts. Note that the word "substantially" in amended claims 21 and 22 coupled with the "<u>so that the insured and interest-bearing status of the aggregated deposit accounts is preserved</u>" conveys the limitation that the method of withdrawal must be chosen in a way to insure that the interest bearing status of the account is maintained, for example, since there is a banking regulation limit on the number of withdrawals that can be made by wire or electronic transfer per month, after 5 withdrawals by

wire or electronic transfer for the month, all of the remaining withdrawal are by the method listed in the claim.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date October 5, 2007

By ____________________

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"Reserve Insured Deposits brings the best of checking, savings, and money-market accounts together in one comprehensive vehicle."

**For more information call 800-637-1700, return the reply card, visit our website at www.reservefunds.com/fdic or speak with your financial advisor**

**YES,** I would like more complete information about Reserve Insured Deposits with the Terms and Conditions. I understand I should read it carefully before I send money.

E-Mail: ____________________

Phone: ____________________

Reserve Management Corp.

Presorted Standard
U.S. Postage
PAID
Permit No. 55
Bayshore, NY 11706

THE RESERVE FUNDS
1250 Broadway, New York, NY 10001-3701

MAILER

# Reserve Insured Deposits

The account with everything, has something for everyone.


***"...[The] FDIC-insured account that combines all the attributes of a money market fund as well as the insurance that protects bank accounts."***

**CNBC.com** — October 27, 1999

THE RESERVE FUNDS

COVER

EXHIBIT A

## The Reserve Funds, creators of "The World's First Money-Market Fund"℠, bring you the next generation of cash management –

# Reserve Insured Deposits:

- FDIC insurance up to $200,000
- High interest
- Free, unlimited no minimum checking
- VISA Check Card convenience
- Convenient ATM access, no charge from Reserve
- Only $2,000 minimum to open an account
- No monthly fee when you maintain a minimum balance of only $1,000
- 1% cash rebate or Reserve Airline Rewards** on all qualified VISA Check Card purchases
- Easy access to account information via telephone or online at www.reservefunds.com
- Additional services available like Reserve eChecking – fees waived for the first three months

The account with everything has something for everyone:

**Security, Convenience, Service, Options, High Interest,**

and over 30 years of commitment and experience from The Reserve Funds.

We're confident once you open a Reserve Insured Deposits account you'll see why "It pays to keep money in Reserve"℠.

**For more information call 800-637-1700, return the reply card, visit our website at www.reservefunds.com/fdic1 or speak with your financial advisor**

"As innovators and inventors of the world's first money market fund over 30 years ago, Reserve constantly strives to improve on our products. With Reserve Insured Deposits, we've set the next milestone in cash management by breaking the barriers between checking, savings and money market accounts."

Bruce Bent, Chairman, The Reserve Funds

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

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INSIDE

EXHIBIT B

THE RESERVE FUNDS
Founders of
"America's First Money Fund"
Est. 1970

October 8, 2001
FOR IMMEDIATE RELEASE

# Wall Street Museum Honors Bruce Bent and Celebrates a Milestone in Financial History

***Proud co-creator of the money fund, Bruce Bent still an innovator after 30 years***

NEW YORK— This month the American Museum of Financial History, an affiliate of the Smithsonian Institution, honors Nassau County native Bruce R. Bent and the creation 30 years ago of the world's first money market mutual fund.

The Museum, located in the Wall Street financial district, will recognize the role money funds have played in the nation's financial history with exhibits chronicling money funds over the last 30 years.

"We congratulate Bruce Bent and The Reserve Funds on their 30 years of achievement," said Meg Ventrudo, Director for Exhibits and Education at the Museum. "We are pleased to celebrate their spirit of innovation in America's financial marketplace with a display of artifacts from the original money fund."

Since its creation in 1970, and opening to investors in 1971, the money market mutual fund has become a staple investment for millions of Americans and home to more than $2.2 trillion. An integral part of every well-informed financial life, the creation of the money fund is recognized by virtually every financial publication worldwide as one of the most significant financial events of the 20th century.

"I wanted to offer people a safe, liquid place to put cash while providing a higher rate of return than couldn't be found elsewhere," said Bent, the 64-year-old chairman and founder of The Reserve Funds.

"Thirty years ago I had an epiphany," Bent said. "I was at my desk, looked up at my partner and said, 'Why not a mutual fund?'"

"I didn't know anything about mutual funds at the time, but I thought it could work. Everyone said it was impossible. 'You can't have same-day redemptions.' 'You can't have telephone redemptions.' 'You can't have daily dividends and you can't eliminate certificates.' I read the regulations and nowhere did it say it couldn't be done," Bent said. "People simply lacked the imagination to make it happen."

Back in 1971, one could buy a gallon of gas for around 36 cents, and a first class stamp cost 8 cents. But a high-interest C.D. was not available for less than $100,000, and even then, investors were locked in for 90 days.

The landscape changed on October 8, 1971, when the world's first money market fund, The Reserve Fund, opened. Initially, Reserve faced an audience of skeptics. Mutual funds previously had been viewed as an unsophisticated tool for the unsophisicated investor. But Bent showed the world that mutual funds are indeed a sophisticated and, moreover, an incredibly versatile, tool for investing. Reserve's innovation sparked an industry that today totals more than $2.2 trillion. And with current market volatility encouraging a flight to quality and liquidity, assets in money funds continue to grow.

—more—

According to Peter G. Crane, vice president and managing editor of industry-tracker iMoneyNet, money funds have earned millions of people billions of dollars.

"I'd estimate that money market mutual funds have earned investors over $250 billion more than they would have made in bank products over their 30-year history," Crane said.

The value of a money fund is in the utility it affords. Money funds are flexible and creative, secure and liquid. Continuing its long tradition as an innovator in cash management, Reserve this year enhanced Reserve Insured Deposits℠, the first money market account to provide FDIC insurance up to $200,000, with free checking, ATM cash access and airline reward points or a 1% cash rebate on purchases. Reserve also introduced the banking community to Reserve Return Sweep℠, an efficient tool to retain deposits and increase spreads. Each of these products has increased the utility of Reserve, helping the company attract over one million accounts with more than $13 billion in assets.

"Nobody can match Reserve's combination of experience, resources and service in cash management," Bent said.

"The World's First Money-Market Fund"℠ was filed with the Securities and Exchange Commission in February 1970, and opened to investors on October 8, 1971. Today, Reserve manages more than $13 billion. In addition to serving roughly 400 institutional clients, such as brokerage firms and banks, Reserve offers 15 money funds with several classes of shares for investments starting at $1,000.

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**The 30th anniversary of the money fund has been covered in the following top-tier news outlets and media interest continues to grow nationally, regionally and internationally.**

*Money Market Funds Turn 30; creator casts a wary eye*, **Reuters news service**, 10/4/2001
*Money fund pioneer: says 'junk' corrupts 'reasonable rate' idea*, **Investment News**, 10/8/2001
*Money Market Mutual Fund 30th Anniversary*, **CNN** "Street Sweep," 10/9/2001
*Money Markets Celebrate 30 Years*, **Associated Press**, 10/9/2001
*Money market funds a haven for 30 years*, **The Denver Post**, 10/14/2001
*A popular place to park your cash*, **Charlotte Observer**, 10/14/2001
*Money Markets Find Fans at 30*, **Christian Science Monitor**, 10/15/2001
*Know your nest egg: Money market funds are safe; but not all alike*, **Toronto Star**, 10/20/2001
*Safety Is The Main Issue: Some money funds focus on gov't debt, but others go into commercial paper*, **Investor's Business Daily**, 10/23/2001
*30th anniversary of money funds*, **E Trade On-Air** radio show, 10/30/2001

EXHIBIT C



FOCUS - 4 of 6 DOCUMENTS


PR Newswire

**March** 8, 2001, Thursday

**SECTION:** FINANCIAL NEWS

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**HEADLINE:** Reserve Management and Irwin Union Bank and Trust Company Partner To Offer the **Reserve Return Sweep**

**DATELINE:** NEW YORK, March 8

**BODY:**

Reserve Management Corp., an affiliate of The Reserve Funds -- the New York-based financial services provider that created the first money market fund in 1970 -- and Irwin Union Bank and Trust and its sister company, Irwin Union Bank, FSB, Indiana-based banks operating 29 offices in 7 mid-western and western states with more than $1.2 billion in assets, today announced a partnership to offer the **Reserve Return Sweep**(SM) (patent pending).

Unlike ordinary cash sweep accounts, which either sweep excess balances to a third party money market fund or through an in-house program using repurchase agreements, the **Reserve Return Sweep** is gaining recognition as the only sweep account that allows banks to offer competitive interest on commercial checking accounts, while retaining deposits on their balance sheets -- which helps facilitate loan funding and growth at a time when funding concerns continue to grow among regional banks.

"We're excited by this opportunity to enhance our product offering, particularly in its ability to help our clients maximize the earning power of their business' cash resources in an FDIC-insured, on-balance-sheet account," said Claude Davis, President of Irwin Bank. "The **Reserve Return Sweep** should enable us to continue to service the strong loan demand we're finding in the growing number of communities we serve, and to continue to provide the highly personalized financial services for businesses and their operators that have gained a real following for Irwin Union. Reserve is an innovative and experienced financial services provider, and we're looking forward to the growth potential of this partnership."

Irwin Union Bank and Trust Company is the second bank to capitalize on Reserve's new sweep product. The agreement will allow Irwin Bank to offer its customers a unique product in a highly competitive environment for deposits. "We're proud to partner with Irwin Bank to offer the **Reserve Return Sweep,**" said Bruce R. Bent II, senior vice president of Reserve Management, and co-creator of the **Reserve Return Sweep.** "We share an innovative commitment to high quality client service, and we're pleased that they've recognized that this product serves the best interests of both the bank and its customers."

Bent developed the new banking technology with his father, Reserve Management Chairman Bruce R. Bent, who invented the first money market mutual fund, spurring what is now a more than $2 trillion industry. The money fund has been recognized as a major catalyst for the overall acceptance and growth of mutual funds. Now, more than 30 years after the launch of The Reserve Fund, the younger Bent intends to bring deposits back to the banks. According to the younger Bent, it has always been Reserve's goal to provide superior and innovative products and services that raise industry standards and reward the investing public.

About Irwin Union Bank and Trust Company

Irwin Union Bank and Trust Company (http://www.irwinunion.com) was founded in 1871 in Columbus, IN, and today operates locally managed banks, along with its sister company, Irwin Union Bank, FSB, in Indiana, Michigan, Kentucky, Missouri, Utah, Arizona and Nevada. Irwin Union specializes in commercial and private banking services and full-line investment and insurance services for the owner-operated business, commercial real estate investor, entrepreneurial and professional markets.

Irwin Union Bank and Trust Company and Irwin Union Bank, FSB are wholly owned subsidiaries of the Irwin Financial Corporation (http://www.irwinfinancial.com), an interrelated group of specialized financial services companies. The Corporation, through its six subsidiaries -- Irwin Union Bank and Trust Company, Irwin Union Bank, FSB, Irwin Mortgage Corporation, Irwin Home Equity Corporation, Irwin Business Finance, and Irwin Ventures Inc. -- provides a broad range of consumer and commercial financial services in selected markets in North America.

About The Reserve Funds

The Reserve Funds (http://www.reservefunds.com) has more than $9 billion in assets through 19 money market funds, the Reserve Private Equity Series and several innovative cash management products and services. Reserve has provided innovative solutions to institutional partners since inception, in 1970. Today, Reserve serves more than 400 institutions, and 400,000 individual accounts worldwide. Reserve's team of regional consultants is responsible for serving institutional client relationships throughout the United States.

For more complete information about The Reserve Funds, including charges and expenses, call 800-637-1700 or visit our web site http://www.reservefunds.com for a prospectus. Read it carefully before you invest or send money.

An investment in a money-market fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Although the fund seeks to preserve the value of your investment at $1.00 per share, it is possible to lose money by investing in a money-market fund. As to equity mutual funds, the investment return and principal value of an investment will fluctuate so that an investor's shares, when redeemed, may be worth more or less than their original cost.

This communication is intended for informational purposes only. It is neither an offer to sell nor a solicitation of an offer to buy shares. Such an offer is made by prospectus only.

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SOURCE Reserve Management Corp.

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▸ Cards
▸ Markets
▸ AB Texas
▸ Company Index
▸ Ranking the Banks
▸ Special Reports
▸ Viewpoints/Letters
▸ Banker of the Year
▸ FinTech100
▸ 25 MPWIB
▸ Banker's Glossary
▸ Quick Links
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# Reserve Funds to Launch Sweeps for Small Banks

American Banker ▪ Thursday, July 20, 2000

By MATTHEW HUNTER

Reserve Funds of New York is set to launch a product designed to make it easier for banks, particularly small ones, to pay interest on commercial checking accounts.

Big banks have gotten around federal restrictions on offering interest on business checking through the use of sweep accounts, in which repurchase agreements let them keep client deposits on the books while "sweeping" them to a money market mutual fund and back.

The Reserve Return Sweep account, which will be available Aug. 1, will use a technological solution to eliminate the administrative hassles of the repurchase agreement, said Bruce Bent 2d, co-creator of the product and president of the company. It will also allow an unlimited number of sweep transactions from the fund to the deposit account, sidestepping a federal limit of six such transactions a month, he said.

Frontier Bank of Everett, Wash., will be the first bank to use the account for its commercial depositors. The

bank had been looking for a product that could pay interest on commercial deposits without hampering loan growth, said John Dickson, senior vice president of its parent, Frontier Financial Corp.



The Reserve Return Sweep account is designed for banks with assets of up to $3 billion, whose ability to fund loan growth would be hampered by repurchase agreements, Mr. Dickson said. Such agreements wipe collateral from institutions' books that they could otherwise use to secure borrowings from the Federal Reserve or the Federal Home Loan Banks, he said.

For banks like $1.6 billion-asset Frontier, the alternative to Reserve Funds' new account is to incur the expense of offering high-interest-bearing certificates of deposit, which are currently yielding around 7% in the Pacific Northwest, Mr. Dickson said. By using Return Reserve Sweep, the bank would be able to keep the deposits on the books to fund lending, he said.

"This allows me to compete with nonbanking institutions" for customer deposits, Mr. Dickson said. Before deciding to go with the Reserve Funds product, Frontier was close to signing a deal with Fidelity Investments for sweep services, he said.

Mr. Bent would not explain how his firm will skirt the six-transfer monthly limit for sweep accounts, beyond saying it involves the use of technology. The firm is applying for a patent, which could take up to a year and a half to obtain, he said.

Mr. Bent also said Reserve Funds developed the first money market account (a claim others dispute), in the 1970s, and regretted not patenting it.

Anthony J. Carfang, a partner at Treasury Strategies in Chicago, said he doubts that Reserve Funds will be able to get a patent, which is rarely granted for intellectual property.

Getting around the regulation on transfers also raised questions. A firm could have the bank hold shares of a money market fund and transfer deposits back and forth, for example, but doing that would likely be very complex, Mr. Carfang said.

Congress for several years has debated revising or eliminating Regulation Q, which restricts interest-bearing commercial checking, but Mr. Dickson said banks are uncertain when or even if Congress would follow through on any proposals.

The House recently passed a bill that would increase the number of transactions allowed to 24 a month and eliminate the ban on commercial checking interest three years after enactment, but it is unclear how far the bill will go in this session.

If Congress fails to pass a bill reforming Regulation Q, Reserve Funds' new product "could catch on like wildfire," Mr. Dickson said.

Money market funds are widely perceived as among the first products to successfully draw deposits away from banks on a large scale. Mr. Bent

hopes that Reserve Return Sweep will give banks a competitive edge in the market for customers' deposits.

Frontier plans to begin aggressive marketing of the product in early fall, and hopes to save money and give its business customers more incentive to keep more of their assets at the bank, Mr. Dickson said. The bank is looking at a variety of fee schedules.

Mr. Bent said 95% of Reserve Funds' money market assets come from brokers and that the company hopes Reserve Return Sweep will help expand its business into banks.


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